

**Gottlieb
& Janey**

Gottlieb & Janey LLP
111 Broadway, Suite 201
New York, NY 10006
Tel (212) 566-7766 Fax (212) 374-1506
www.gottliebjaney.com
New York London Rome

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VIA ECF

The Honorable Judge Colleen McMahon
Chief United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Craig Carton and Michael Wright, 17 Cr. 680 (CM)*

LETTER MOTION FOR BAIL MODIFICATION

Dear Judge McMahon:

This law firm represents the Defendant Craig Carton in the above-referenced matter. We respectfully submit this application to modify the conditions of Mr. Carton's bail, which were originally set by the Honorable Magistrate Judge Andrew J. Peck at Mr. Carton's initial appearance on or about September 6, 2017. (ECF 5, 6; *see also Exhibit A* attached hereto (Appearance Bond, Order Setting Conditions of Release and Bail Disposition).) Specifically, we request that the current condition on Mr. Carton's travel be amended to restrict travel to the continental United States for the reasons described herein, including part and parcel with his employment interview process. **Neither the Government nor Pretrial Services objects to this request.**

FACTUAL BACKGROUND

On or about September 6, 2017, Mr. Carton was released on his own recognizance pursuant to a secured personal appearance bond. (ECF 5, 6; *see also Exhibit A.*) The conditions of release imposed at that time restrict Mr. Carton's travel to the Southern and Eastern Districts of New York, the District of New Jersey, and the Eastern District of Pennsylvania. (*Id.*) Mr. Carton has fully complied with this and all other conditions of his release.¹ Moreover, he has consistently attended proceedings before the Court as required, and, by and through counsel, has



actively participated in his defense of this matter. Mr. Carton is now undertaking employment search, which requires unrestricted travel. More particularly, even though Mr. Carton would be employed in the New York area, the nature of certain employment prospects requires travel to corporate offices across and throughout the continental United States on short notice. Accordingly, and in light of the applicable legal standard for bail modification in the Second Circuit, discussed below, Mr. Carton respectfully submits this application to amend his conditions of release to restrict travel to the continental United States.

ARGUMENT

I. The Applicable Legal Standard

Pursuant to 18 U.S.C. § 3142(c)(1)(B), the Court is required to impose the “**least restrictive** [] condition, or combination of conditions, that...will reasonably assure the appearance of [Mr. Carton] as required and the safety of any other person and the community.” 18 U.S.C. § 3142(c)(1)(B) (emphasis supplied). In making this determination, factors to be considered include: “(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence”; “(2) the weight of evidence against the person”; “(3) the history and characteristics of the person”; and “(4) the nature and seriousness of the danger to any person or the community that would be posed by the person’s release.” 18 U.S.C. § 3142(g)(1)-(4).

Additionally, under the Eighth Amendment of the United States Constitution, the conditions of release imposed cannot be excessive in relation to the interest they seek to protect. *E.g., United States v. Arzberger*, 592 F. Supp. 2d 590, 606 (S.D.N.Y. 2008) (citing *United States v. Salerno*, 481 U.S. 739, 754 (1987)).

The Court is authorized to “at any time amend the order to impose additional or different conditions of release” (18 U.S.C. § 3142(c)(3) (emphasis supplied)) and need not determine whether the initial order setting release conditions was erroneous or contrary to law (*United States v. Zuccaro*, 645 F.2d 104, 106 (2d Cir. 1981), *cert. denied* 454 U.S. 823 (1981)).

II. The Restriction On Mr. Carton’s Travel Should Be Modified

The question before the Court is whether limiting Mr. Carton’s travel to the Southern and Eastern Districts of New York, the District of New Jersey, and the Eastern District of Pennsylvania is the least restrictive condition to reasonably assure his appearance as required and the safety of any other person and the community. Upon consideration of the facts here, we submit that the current restriction is greater than necessary.

First, as previously stated, **the Government and Pretrial Services do not object to the instant request to restrict Mr. Carton’s travel to the continental United States**. This alone is strong indication that the current restriction is unnecessary to assure Mr. Carton’s continued appearance in this case and public safety.

Second, Mr. Carton's conduct to date leaves no question that he is able, and fully intends, to continue reliably participating in this case. Mr. Carton has complied with all conditions of his release; he has attended all required Court appearances; he has retained undersigned counsel in his defense; and, by and through counsel, he has made submissions to the Court in furtherance of his defense. In short, Mr. Carton has treated, and will continue to treat, this proceeding with the utmost seriousness.

Finally, neither the charges against Mr. Carton nor the underlying facts alleged in the indictment raise any spectre of violence. Mr. Carton poses no risk to the safety of any person or the community.

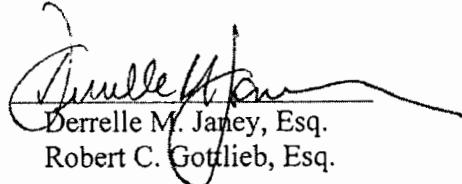
CONCLUSION

On the facts here, we respectfully submit that the current travel restriction is greater than necessary and unduly burdens Mr. Carton's freedom of movement under the circumstances, especially in relation to his employment efforts. We submit that this application is supported by 18 U.S.C. § 3142. On this basis, Mr. Carton respectfully requests that the conditions of his release be amended to restrict travel to the continental United States.

Respectfully submitted,

GOTTLIEB & JANEY LLP

By:



Derrelle M. Janey, Esq.
Robert C. Gotlieb, Esq.

cc: All counsel of record (via ECF)